

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to amend the following DCYF rule:

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

This rule has been amended in compliance with State Plan requirements under Title IV-E of the Social Security Act as amended by Federal law. This revised rule includes provisions of Public Law (P.L.) 109-239, Safe and Timely Interstate Placement of Foster Care Children Act of 2006, which requires the safe and timely placement of children into permanent homes across State lines. The previous version of this policy, refiled 1/5/07, is superseded by this amended version.

In the development of this rule, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State's website (<http://www.sec.state.ri.us/ProposedRules/>) and the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401 528-3686 or RI Relay, dial 711). Interested persons should submit data, views or written comments by February 27, 2009 to Dorothy Hultine, Implementation Director for Policy & Programs, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903.

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Department of Children, Youth and Families does not discriminate on the basis of race, color, national origin or handicap in acceptance for or provision of services or employment in its programs or activities.

Patricia Martinez, Director

Interstate Compact on the Placement of Children (ICPC)

Rhode Island Department of Children, Youth and Families

Policy: 700.0060

Effective Date: October 8, 1984 Revised Date: ~~February 3, 2003~~ Version: ~~32~~

The Interstate Compact on the Placement of Children (ICPC) is an agreement among all fifty (50) states, the District of Columbia and the U.S. Virgin Islands that establishes standardized procedures for the placement of children across state lines. [The Safe and Timely Interstate Placement Act of 2006 \(PL 109-239\), requires states to have procedures in effect for the orderly and timely interstate placement of children.](#) The ICPC offers services and provides protections to a child moved across state lines for purposes of placement in foster care, adoption or reunification with parents. The Interstate Compact is established in Rhode Island General Law 40-15. The Compact applies to the following situations in which a child may be placed in another state:

- Placement prior to an adoption
- Placement in foster care, including foster homes, group homes, certain residential treatment facilities and institutions
- Placement of a child with a parent or relative when a parent or relative is not making the placement
- Placement of an adjudicated delinquent in an institution in another state

As a party to the ICPC, the Department may be either the receiving agency or sending agency with reference to requests for home studies and post-placement supervision. A child must have a legal status of temporary custody, commitment or guardianship with the Department in order for ICPC to apply. If there is indication that the Indian Child Welfare Act may be applicable, the worker should consult with legal counsel to determine appropriate action. The ICPC is also applicable when a private agency wishes to bring a child into another state for purposes of foster care or preliminary to adoption. The private agency is required to notify in writing the public agency in the receiving state and must comply with the relevant laws in the receiving state prior to placement.

The ICPC provides certain safeguards to the child as well as the sending and receiving agencies involved in the placement. Although these protections are commonly available to a child when placed within the state, they are available only through the Compact when a child is placed across state lines. Some of these safeguards include:

- The opportunity for the sending state to have home studies and evaluations of potential placements completed by the receiving state [that address the specific needs of the child, including the child's safety, permanency and well being.](#)
- The opportunity for the receiving state to determine that the placement is [appropriate safe and suitable](#) for the child and that applicable laws and policies have been followed prior to approving the placement.
- The assurance that the child is protected legally and financially by assigning these responsibilities to the sending state
- The requirement that the sending state maintain legal jurisdiction once the child moves to the receiving state until the child is adopted, reaches the age of majority, becomes self-supporting or the state's custody is terminated by mutual agreement with the receiving state
- The provision by the receiving state of courtesy supervision and written reports in certain cases once a placement has been made

Prior to the placement of a child from Rhode Island with a family in another state, the Department shall request that the home, in accordance with the standards established in the receiving state, be fully licensed/approved. (Different states use various terms, such as "approved" to indicate that a home is licensed.) In limited situations, an administrative decision may be made to place the child in a home that does not meet specific licensing requirements in the receiving state as long as the receiving state approves the placement through the ICPC.

In certain circumstances ICPC regulations (Regulation 7) allow the court to issue an order expediting an out of state placement to meet the special needs of a child. ICPC Priority Placement procedures are applied only when the sending state's request for placement meets one of the criteria stated below. ICPC Priority Placement will not apply when the child is already living in the receiving state in violation of ICPC or when the sending state is requesting that a foster, family care or adoptive home be licensed/approved. The court may find that a child is in need of a priority placement when one of the following circumstances exists:

- The proposed placement is with a relative and the child:
 - is under two years of age, or
 - is living in an emergency shelter, or
 - has spent a considerable amount of time in the home of the proposed caretaker.
- The court may also order a priority placement when the receiving state Compact Administrator has had the properly completed paperwork and necessary documentation for over thirty (30) business days but the sending agency has not received appropriate notice whether the child may or may not be placed.

ICPC Priority Placement procedures cannot be applied unless the sending state's request for placement meets one of the criteria stated above. In particular, ICPC Priority Placement will not apply when the child is already living in the receiving state in violation of ICPC or when the sending state is requesting that a foster, family care or adoptive home be licensed/approved.

The following situations are exempt from the Compact:

- Placement in any institution that is primarily educational
- Placement in a medical or mental health facility
- Placement of a child, who is not in the temporary custody, custody, or under the guardianship of the Department, with a close relative (parent, stepparent, grandparent, adult brother or sister, uncle or aunt or child's non-agency guardian) when the placement is initiated by another close relative.

Each state appoints a Compact Administrator who is responsible for handling the day to day activities associated with the Compact. The Compact Administrator oversees all requests for interstate compact referrals, including those initiated by the Department when requesting placement of a child in another state and those received from other states requesting placement of a child in Rhode Island. Additionally, the Compact Administrator is authorized to approve ICPC placements and assign responsibilities relating to overseeing the placement as long as it continues. The Compact Administrator is available to assist staff with questions regarding the appropriateness of an ICPC referral.

Federal law (The Adoption and Safe Families Act (ASFA) (PL 105-89) and Safe and Timely Interstate Placement Act (PL 109-239), requires, for any child placed in foster care in a state outside the state in which the child's parent(s) are located, in out of state foster care, whether in a n institution treatment facility or a foster home, at least one visit every six (6) 12 (twelve) months by the caseworker from the sending state, or the receiving state in which the child has been placed or a private agency under contract with either state. The Department requires monthly caseworker visits for children in foster care in accordance with DCYF Policy 700.0165.

Worker/Client Contact. A report documenting the visit, detailing the child's circumstance and indicating whether the placement continues to be the most appropriate and least restrictive safe setting, consistent with the best interest and special needs of the child, must be submitted to the ~~sending~~-state agency of the state in which the child's parents reside.

Related Procedure:

Interstate Compact on the Placement of Children (ICPC)

Interstate Compact on the Placement of Children (ICPC)

Procedure From Policy 700.0060: Interstate Compact on the Placement of Children (ICPC)

A. Placement of a Child from RI into Another State (Sending State)

1. The primary service worker of a child, whose situation warrants ICPC referral, will follow all existing Department procedures for out-of-state placements, including obtaining permission from the Rhode Island Family Court and, if applicable, review by the Residential Review/Care Management Team in the Division of Program Development, Contracts and Standards. (Refer to Policy 1100.0015, Family Court Hearings for Out-of-State Placement of Children.)
2. Worker will prepare the ICPC request packet and submit to his/her supervisor for approval. The packet shall include the following:
 - a. Five (5) copies of ICPC Form 100A signed by worker. (In the event that more than one child is being referred for placement with the same resource, the worker need only submit one (1) copy of the 100A per child. The ICPC Administrator will generate the required number of copies after signing each 100A.)
 - b. Three (3) copies of the following:
 - i. Current social history including (a) through (g) below. (In the event that more than one child is being referred for placement in the same home, only one social history (three copies) is required.)
 - (a) Identifying information
 - (b) Account of Department's contact with child and family
 - (c) Current assessment and agency ~~case plan~~ service plan
 - (d) Reason for placement
 - (e) Objectives of placement
 - (f) Needs of child which must be met in placement
 - (g) Other information relevant to the receiving agency's evaluation of the proposed placement
 - ii. Court order with judge's signature granting guardianship, temporary custody, or commitment to the Department.
 - iii. A brief memo explaining what is being requested of the receiving state that includes the following:
 - (a) A description of any unusual circumstances in the case (e.g., medical problems, special education needs, unusual Court orders).
 - (b) A statement regarding the financial/medical plan, including IV-E eligibility.
 - (c) A request that the home be licensed/approved in accordance with the regulations in the receiving state.
 - (d) A request that the child receive a monthly caseworker visit be monitored by the supervising caseworker in the receiving state, in accordance with the frequency of contact outlined in the case plan. ASFA requires that, at a minimum, one visit every 12 months be made to any child placed in foster care outside the state in which the home of the parents of the child is located.
3. A request that written reports be submitted to the sending state. Generally, at least quarterly reports should be made. Reports must address whether or not the placement continues to be the most appropriate, least restrictive, safe setting for the child. The Supervisor will review file for completeness, initial the packet and submit to the ICPC Administrator or designee.
4. Responsibilities of the ICPC Administrator:

- a. Review the referral packet for compliance with the above requirements.
- b. Forward two (2) copies of the approved referral packet to the appropriate administrator in the state in which placement is being considered.
- c. Forward a copy of the ICPC home study and signed 100A to the Unit Supervisor when the results of the home study are received from the Compact Administrator in the receiving state. ICPC Administrator informs supervisor that a Case Activity Note (CAN) must entered into RICHIST within fourteen (14) days, indicating if the home study is sufficient to make a determination regarding placement. This process may take up to thirty (30) business days.
- d. Maintain appropriate records to track placements made pending completion of the licensing process.
- e. Forward a copy of the license along with proof of criminal records and/or safety checks when received to the Licensing Administrator or his/her designee.

5. Review of home study report

- a. The Department will consider the report that is received from another state, a private agency under contract with another state or an Indian tribe as meeting the requirements for the completion of a home study before placing a child in the home, unless, within fourteen (14) days after receipt of the report, the Department determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child.
- b. Worker and supervisor review the report and inform ICPC administrator if further information is required to make a determination regarding placement.

5-6. Placement

- a. The prospective placement cannot be made until the receiving State Compact Administrator grants approval.
- b. If approval is granted for the placement, but the licensing process has not been completed, a supervisory/administrative decision may be made to place the child prior to the completion of the licensing process; however, the placement is not eligible for federal reimbursement until the license is fully approved/granted. After placement is made, the Supervisor must notify the Rhode Island Compact Administrator immediately of the placement via ICPC Form 100B.
- c. In limited situations, a home may be granted ICPC approval by the receiving state, even though the home will not meet the required licensing standards in the receiving state. In these situations, administrative approval through a worker's chain of command must be obtained prior to placement of a child. The placement will not be eligible for federal reimbursement. The Supervisor must notify the Rhode Island Compact Administrator immediately of the placement via ICPC Form 100 B.
- d. The supervisor must notify the Rhode Island Compact Administrator immediately if any subsequent changes occur regarding placement also utilizing ICPC Form 100B.
- e. If the status of the placement changes from a foster/relative placement to a pre-adoptive placement, approval of the placement as an adoptive home must be obtained from the receiving state according to that state's policy and procedures prior to finalization of the adoption.
- f. If a decision is made not to use the approved placement, the ICPC case must be closed utilizing the ICPC Form 100B.
- g. A child in an out of state placement must continue to meet the same requirements for permanency as any child in care, including case plans/service plan reviews, court reviews and permanency hearings.

B. ICPC Priority Placement (ICPC Regulation 7) requires a court order signed by a judge that includes a finding of the need for a priority placement.

1. Responsibilities of worker and supervisor in a priority placement:
 - a. Prepare three (3) copies of the signed court order

- b. Five (5) copies of Sending State Priority Home Study Request Form (ICPC form 101)
 - c. The requirements outlined in A above
 - d. Forward to the Compact Administrator within three (3) business days
 2. Responsibilities of sending state Compact Administrator: Within two (2) days of receipt of priority request, the Compact Administrator is to transmit by overnight mail the priority request (ICPC form 101), accompanying documentation, and a notice that the request for placement is entitled to priority processing.
 3. The receiving Compact Administrator shall make a determination within twenty (20) business days from the date the overnight mail was received. Modifications may be made in these timeframes by written agreement with the court, the sending agency and the receiving state Compact Administrator.
- C. Placement of a Child Into RI from Another State (Receiving State)
1. The referral is reviewed by the ICPC Administrator for completeness and then assigned to the appropriate DCYF region for completion of the home study and recommendations.
 2. The ICPC home study is completed by the worker, approved by the supervisor on the Interstate Compact Home Assessment form (DCYF # 190), ~~and~~ submitted in triplicate to the ICPC Administrator ~~upon completion and returned to the sending state~~ (within ~~approximately thirty-sixty (60) 30) business~~ consecutive days of receiving the request from another state.
 3. In the case of a referral for a home study for a foster or adoptive home, the following provisions apply:
 - a. The Department will conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home and to what extent the placement would meet the needs of the child.
 - b. An exception to the 60 day requirement is permitted in the case of a home study begun on or before September 30, 2008, if the reporting state fails to conduct and complete the home study within the 60 day period as a result of circumstances beyond the control of the state (e.g., delays in receipt of Federal agency criminal records checks or the failure by an entity to provide completed medical forms requested by the state at least 45 days before the end of the 60-day period). The state shall have 75 days (an additional 15 days beyond the original 60 days) to comply with the request provided the state documents the circumstances involved and certifies that completing the home study is in the best interests of the child.
 - c. The state is not required to complete within the applicable time period the parts of the home study involving the education and training of the prospective foster or adoptive parents.
 - d. The state will treat any such report that is received from another state, a private agency under contract with another state or an Indian tribe as meeting any requirements imposed by the state for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the state determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child.

The state shall not impose any restriction on the ability of a state agency administering, or supervising the administration of, a state program operated under a state plan approved under this part to contract with a private agency for the conduct of such a home study.
 4. If the sending state requests that a home be licensed, the assigned worker must initiate the licensing process in accordance with DCYF Policy 900.0020 Licensing of Foster Care Homes. If the home study request is for a non-relative placement in Rhode Island, it must be licensed prior to placement.
 5. The ICPC Administrator either approves or denies the placement and conveys that

- decision to the sending state.
6. The sending state must utilize the approved placement within six (6) months (ICPC Regulation No. 6).
 7. If the approved placement is utilized and the sending state so requests, the case is assigned to a DCYF unit in the appropriate region for post-placement supervision and written reports. The frequency of contact and written reports should be established by the sending state. If no guidelines are provided, the frequency of contact should follow guidelines established in [Policy 700.0165 Family Services Worker/Client Contact](#) and written reports should be submitted on a quarterly basis. These reports are sent to the Department's Compact Administrator in triplicate for forwarding to the sending state's ICPC office.
 8. The case will remain open to DCYF until such time as the child in question is adopted, custody is returned to a parent, or other permanency plan, such as guardianship, is arranged. Under no circumstances can the sending state close the case without approval from the Department's Compact Administrator.